

REMARKS

The application has been reviewed in light of the Final Office Action dated June 3, 2005.

Claims 1-5 are currently pending in the present application. In the Office Action, Claims 1 and 2 were again rejected under 35 U.S.C. § 102(e) as anticipated by *Jonsson et al.* (U.S. 6,385,585), Claim 3 was again rejected under 35 U.S.C. § 103(a) as being unpatentable over *Jonsson* in view of *Makela et al.* (U.S. 6,301,338), and Claims 4-5 were again rejected under 35 U.S.C. § 103(a) as being unpatentable over *Jonsson* in view of *Svensson* (U.S. 6,301,338).

First, with regard to the Examiner's response to our previous remarks, it is noted that the Examiner's statement, "The Examiner agrees with applicants' argument, Johnsson [sic] et al. discloses 'the user may send short messages or commands to the server both during voice conversation and when no communication is going' reads on claim limitation 'transmitting a character message while maintaining a conversation'," is incorrect. More specifically, at no time in our previous response was this statement made. Rather, the exact opposite statement was made, i.e., it was argued that this assertion made by the Examiner is incorrect.

Further, with regard to the Examiner's use of *Jonsson*, it is still respectfully submitted that the Examiner is incorrect as the prior description of Figs. 5A and 5B in cols. 9 and 10 of *Jonsson* makes clear that such a short message and/or alert message would first be transformed to a formant frequency and then processed in a vocoder before being transmitted over the voice band. (See, col. 9, lines 29-34, and 62-67) The subsequent description of Fig. 6 (at col. 11, lines 4-16) also makes clear that symbols are first converted to formant frequencies before transmission over the voice band.

As previously noted, in response to our previous arguments, the Examiner asserts that *Jonsson* teaches "several exemplary apparatus for communicating input symbols over a speech

channel”, only one of which teaches using the formant frequencies. Further, the Examiner again cites col. 10, lines 39-44 of *Jonsson*, which reads as follows:

“In still another exemplary application, the user may send short messages or commands to the server both during voice conversation and when no communication is going on.”

The Examiner then asserts that “a short message” corresponds to “non-converted character data.” It is respectfully submitted that the Examiner is incorrect. That is, this section merely states that short messages are sent, which is true, but they are sent using converted formant frequencies.

Further, the Examiner was attempting to argue that *Jonsson* teaches when no conversation is taking place, no conversion would be performed on the character data before transmission. However, as recited in the independent claims of the present application, non-converted character data is being transmitted *during a conversation*. This feature is not taught in this cited section or any other section of *Jonsson*. That is, there is no section of *Jonsson* that teaches transmitting non-converted character data *during a conversation*. *Jonsson* only teaches the method of transmitting the character data as formant frequencies during a conversation. *Jonsson* provides no teachings of how character data is transmitted when no conversation is taking place. Therefore, it is respectfully submitted that the Examiner is incorrect in rejecting the claims of the present application in view of *Jonsson*.

To summarize, the main issue presented herein is that the Examiner asserts that *Jonsson* teaches transmitting non-converted character data *during a conversation*, as recited in independent Claims 1 and 5. However, it is respectfully submitted that this is incorrect, as *Jonsson* only teaches the method of transmitting the character data as formant frequencies during a conversation and provides no teachings of how data is transmitted when a conversation is not taking place.

Therefore, based at least upon the arguments presented above, it is respectfully submitted that Claims 1 and 5 are patentably distinct from *Jonsson*, and it is respectfully requested that the rejection of these claims be withdrawn.


Without conceding the patentability per se of dependent Claims 2-4, it is submitted that Claims 2-4 are allowable at least by virtue of their dependencies on independent Claim 1. Reconsideration and allowance of Claims 2-4 is also respectfully requested.

In view of the foregoing remarks, it is respectfully submitted that all pending claims, namely Claims 1-5, are in condition for allowance. Early and favorable consideration and allowance of Claims 1-5 is respectfully requested. Should the Examiner believe that a telephone or personal interview may facilitate resolution of any remaining matters, the Examiner is respectfully requested to contact Applicant's attorney at the number indicated below.

Respectfully submitted,

DILWORTH & BARRESE, LLP

By:



Paul J. Farrell
Registration No. 33,494
Attorney for Applicant

DILWORTH & BARRESE, LLP
333 Earle Ovington Boulevard
Uniondale, New York 11553
(516) 228-8484
(516) 228-8516 (FAX)
PJF/DMO/las